

FILED  
JAN 11 2004  
DEC 11 PM 4:06  
UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 8:03-cr-77-T-30TBM

SAMI AMIN AL-ARIAN,

Defendant.

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**ORDER**

THIS CAUSE is before the court on the Defendant Al-Arian's **Motion to Unseal** (Doc. 387) certain magistrate case files, more specifically, Case Nos. 95-487-MM to 95-489-MM, and Case No. 8:03-M-78MAP. Each of the files relates to a search and seizure related to the instant case and conducted by federal agents in either 1995 or 2003. At a recent discovery conference, the Government indicated that it had no objection to the unsealing of any of the search warrant files. Accordingly, the **Motion to Unseal** (Doc. 387) is **GRANTED** and, to the extent that the court has not previously done so, the files shall be placed in the public record.

In addition to the four case files identified in Defendant Al-Arian's motion, another magistrate file related to this case was opened in December 1995 under Case No. 95-529-MM. That case related to the search of a storage space at Peoples Storage, 12225 North 56<sup>th</sup> Street, Space D-20, Tampa, FL 33617. The court directs the unsealing of that file as well. Further, on February 19, 2003, Magistrate Judge Mark A. Pizzo authorized six additional search

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warrants under Case Nos. 8:03-M-076MAP, 8:03-M-077MAP, and 8:03-M-079MAP to 8:03-M-082MAP. These magistrate files are also ordered unsealed, and they too shall be placed in the public records of this court.

As this court indicated in its December 3, 2003, letter to counsel, case files related to the 1995 searches were among those destroyed in error by staff in the clerk's office. As further indicated in the letter, because the court itself is without means of reconstructing the files, it must look to the parties involved for their assistance. Since forwarding the letter to counsel, the court has received from the Government a copy of the November 17, 1995, affidavit of former Special Agent William D. West, in support of the 1995 searches of Mr. Al-Arian's residence, his office at University of South Florida, and the WISE offices, which the court is advised was generated from an electronic database. While the submission does not include the application, the search warrant, or any attachments further identifying the locations to be searched, the document appears to be a true and correct copy of the affidavit submitted to the undersigned in support of these searches. The court has also received a copy of the application and affidavit for the search of the storage site. Although the affidavit is incomplete and does not include certain attachments, it too appears to be a true copy of the original document.

The court believes that it is necessary and appropriate to attempt to reconstruct these 1995 magistrate files. Accordingly, the court *sua sponte* ORDERS that the Government continue its search for copies, including any certified copies of the 1995 search warrants, applications, affidavits, and any attachments, as well as any other related pleadings filed with the court in these cases. Upon locating documents related to the search, the Government shall

have them reviewed by the respective affiants, who shall certify the authenticity of the documents in writing under oath or affirmation. Upon receipt of such certification by the affiant, the Government shall file the documents with the court for its review and, if appropriate, for filing in the newly reconstituted magistrate files that shall be maintained by the Clerk of Court under the original case numbers.

The Clerk of Court is directed to provide to counsel for all Defendants, in addition to a copy of this Order, copies of the documents received from the Government, that is, the affidavit purportedly related to Case Nos. 95-487-MM to 95-489-MM and copies of the application and affidavit for search warrant in Case No. 95-529-MM, as well as copies of the entire file in Case No. 8:03-M-078MAP. The remainder of the 2003 magistrate files addressed herein shall be available to the Defendants in the usual course at the Clerk's Office.

**Done and Ordered** in Tampa, Florida, this 11<sup>th</sup> day of December 2003.



THOMAS B. McCOUN III  
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
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Date Printed: 12/11/2003

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